

# **Libby Community Advisory Group**

## **Meeting Summary**

### **October 9, 2008**

#### **Introductions**

Gerald Mueller and members of the Libby Community Advisory Group (CAG) introduced themselves. A list of the members in attendance is attached below as Appendix 1.

#### **Agenda**

The CAG agreed to the following agenda for this meeting:

- Old Business
  - Libby Schools Update
  - CAG Purpose and Process
  - Libby Community-Based Research Initiative Update
  - Asbestos Health Funding Advisory Group
  - Baucus Hearing
- New Business
  - Agency Reports
- Public Comment
- Next Meeting Agenda

#### **Libby Schools Update**

Kathie Atencio provided the update using a power point presentation entitled, “Summary of Libby Public School Sampling Results, Removal Actions and 2008 Planning.” She passed out hard copies of her presentation to the CAG and audience members. The summary of the historic and 2008 investigation results and the resulting actions for each site presented by Ms. Atencio follows.

## Head Start (Formerly Plummer Elementary)

Head Start (formerly Plummer Elementary) – Historical Investigation Results									
Media	Date	# of Samples Collected	# and % of Samples with Detects				Analytical Method	Results and Sensitivity Range	
			LA	%	C	%		LA	C
Air	1/2000	4	0	0%	1	25%	TEM ISO 10312	ND (Sen: 0.0007 S/cm³)	0.7938 s/cm³ (1S) (Sen: 0.0007 S/cm³)
Bulk	No Suspect Material Observed								
Dust	1/2000	4	0	0%	1	25%	TEM ISO 10312	ND (Sen: 32 – 26,769 S/cm²)	1,836 s/cm² (57S) (Sen: 32 – 26,769 S/cm²)
Soil	3/2001 to 6/2001	52	10	19%	0	0%	All by 9002 then NDs by PLM-VE	43 ND by PLM-VE 6 <1% by 9002 3 >1% by 9002 1 TR by PLM-VE	ND

Head Start (formerly Plummer Elementary) – 2008 Investigation Results									
Indoor Results		<ul style="list-style-type: none"><li>Unexpanded vermiculite at moderate levels was observed in two, five-gallon buckets of sand in a storage room of the main gym area. One of the buckets had three toy shovels in it and a small quantity of sand was spilled on the floor nearby.</li><li>Vermiculite was also observed in the soil of a potted plant in the northwest office.</li></ul>							
Outdoor Results		No observations of vermiculite or insulation leaking from exterior walls							
Notes: LA – Libby Amphibole; C – Chrysotile; TEM – transmission electron microscopy; ISO – International Organization of Standardization; ND – Non-detect; s/cm³ – structures per cubic centimeter; s/cm² – structures per square centimeter; S – structure count; 9002 – PLM Method NIOSH 9002; PLM-VE – polarized light microscopy by visual estimation; TR – trace (<0.2%); > - greater than; < - less than; % - percent; Sen - analytical sensitivity; Indicates removal action taken based on result or observation.									

Head Start (formerly Plummer Elementary) – Resulting Actions		
Media	Detection Frequency	Resulting Action
Air	0/4	No Action Required
Bulk	2008: Sand with Moderate Vermiculite Observed	No Action Required ERS removal activity conducted to remove sand and vermiculite in 2008
Dust	0/4	No Action Required
Soil	10/52	July 2001: Removed soil from former ice rink area October 2002: Removed soil from former pond area

## Asa Wood Elementary

Asa Wood Elementary – Historical Investigation Results									
Media	Date	# of Samples Collected	# and % of Samples with Detects				Analytical Method	Results Range	
			LA	%	C	%		LA	C
Air	1/2000	5	0	0%	0	0%	TEM ISO 10312	ND (Sen: 0.0007 – 0.0008 S/cm <sup>3</sup> )	ND (Sen: 0.0007 – 0.0008 S/cm <sup>3</sup> )
Bulk	1/2000	No Suspect Building Material Observed							
Dust	1/2000	6	0	0%	2	33%	TEM ISO 10312	ND (Sen: 32 – 26,979 S/cm <sup>2</sup> )	3,221 s/cm <sup>2</sup> (1S) to 43,167 s/cm <sup>2</sup> (8S) (Sen: 32 – 26,979 S/cm <sup>2</sup> )
Soil	3/2000	13	NA		NA		NA	Archived	
	6/2001	31	5	16%	0	0%	All by 9002 then NDs by PLM-VE	26 ND by PLM-VE 3 TR by PLM-VE 2 <1% by 9002	ND
Asa Wood Elementary – 2008 Investigation Results									
Indoor Results		•VCBM observed in wall plaster in reading room and near stage. Found in good condition and non-friable. •VCI observed in cinder block wall as the result of puncture from forklift in 2/2008							
Outdoor Results		•Walking path: samples collected (16 – ND, 2 – TR by PLM-VE) and VV inspections conducted (1 “low” in each of 5 samples) every 150 feet •New playground: One sample collected (ND) and VV inspections conducted (none observed) •2001 sample locations: VV inspections conducted from 5 areas where samples were <1% or TR ( 3 “lows” at one location)							
Notes: LA – Libby Amphibole; C – Chrysotile; TEM – transmission electron microscopy; ISO – International Organization of Standardization; ND – Non-detect; s/cm <sup>2</sup> – structures per square centimeter; S – structure count; 9002 – PLM Method NIOSH 9002; PLM-VE – polarized light microscopy – visual estimation; TR – trace (<0.2%); < - less than; % - percent; VV – visual vermiculite; VCBM – vermiculite containing building material; VCI – vermiculite containing insulation; Sen – analytical sensitivity									

Asa Wood Elementary – Resulting Actions		
Media	Detection Frequency	Resulting Action
Air	0/5	No Action Required
Bulk	No Suspect Building Material Observed  2008: Forklift Punctured Cinder Block Wall Exposing VCI	No Action Required  2008: Spill Location Cleaned Up
Dust	0/6	No Action Required
Soil	5/31	No Action Required; Below Cleanup Criteria

## Former McGrade Elementary

Former McGrade Elementary– Historical Investigation Results									
Media	Date	# of Samples Collected	# and % of Samples with Detects				Analytical Method	Results Range	
			L A	%	C	%		LA	C
Air	1/2000	4	1	25%	0	0%	TEM ISO 10312	0.0007 S/cm <sup>3</sup> (1S) (Sen: 0.0007 S/cm <sup>3</sup> )	ND (Sen: 0.0007 S/cm <sup>3</sup> )
Bulk	No Suspect Building Material Observed								
Dust	1/2000	4	0	0%	4	100%	TEM ISO 10312	ND (Sen: 32 – 1,079 S/cm <sup>2</sup> )	64 s/cm <sup>2</sup> (2S) to 56,117 s/cm <sup>2</sup> (52S) (Sen: 32 – 1,079 S/cm <sup>2</sup> )
Soil	6/2001 to 8/2001	40	2	5%	0	0%	All by 9002 then NDs by PLM-VE	38 ND by PLM-VE 1 TR by PLM-VE 1 <1% by 9002	ND
Notes: LA – Libby Amphibole; C – Chrysotile; TEM – transmission electron microscopy; ISO – International Organization of Standardization; UNK – unknown; ND – Non-detect; s/cm <sup>2</sup> – structures per square centimeter; S – structure count; 9002 – PLM Method NIOSH 9002; PLM-VE – polarized light microscopy – visual estimation; TR – trace (<0.2%); < – less than; % – percent; Sen – analytical sensitivity;									

Former McGrade Elementary – Resulting Actions		
Media	Detection Frequency	Resulting Action
Air	1/4 (Reporting Issue with Sample – Concentration Unknown)	No Action Required
Bulk	No Suspect Building Material Observed	No Action Required
Dust	0/4	No Action Required
Soil	2/40	No Action Required; Below Cleanup Criteria

## Libby Middle School

Libby Middle School – Historical Investigation Results									
Media	Date	# of Samples Collected	# and % of Samples with Detects				Analytical Method	Results Range	
			LA	%	C	%		LA	C
Air	1/2000	8	0	0%	0	0%	TEM ISO 10312	ND (S: 0.0007 S/cm³)	ND (S: 0.0007 S/cm³)
Bulk	1/2000	No Suspect Building Material Observed							
Dust	1/2000	7	0	0%	4	57%	TEM ISO 10312	ND (S: 32 – 53,958 S/cm²)	32 s/cm² (1S) to 52,879 s/cm² (49S) (S: 32 – 53,958 S/cm²)
Soil	3/2001 to 6/2001	175	43	25%	0	0%	All by 9002 then NDs by PLM-VE	109 ND by PLM-VE 21 TR by 9002 9 TR by 9002 13 >1% by PLM-VE	ND
Libby Middle School – 2008 Investigation Results									
Indoor Results		<ul style="list-style-type: none"><li>•Unexpanded vermiculite observed in Room 501 beneath sink, disposed of as IDW</li><li>•Unexpanded vermiculite observed in Room 505 in potted plants</li></ul>							
Outdoor Results		<ul style="list-style-type: none"><li>•Water faucet excavations: excavation inspection - no VV observed</li><li>•Sprinkler system repair: excavation inspection – one flake of vermiculite observed</li><li>•Playground area: samples collected (4 – ND) and VV inspections (1 “low” in each of 2 samples; 2 “lows” in one sample; 3 “lows” in one sample).</li></ul>							
Notes: LA – Libby Amphibole; C – Chrysotile; TEM – transmission electron microscopy; ISO – International Organization of Standardization; ND – Non-detect; s/cm² – structures per square centimeter; S – structure count; 9002 – PLM Method NIOSH 9002; PLM-VE – polarized light microscopy – visual estimation; TR – trace (<0.2%); > - greater than; % - percent; VV – visual vermiculite; IDW – investigation derived waste; Red Font – See Removal Actions									

Libby Middle School – Resulting Actions		
Media	Detection Frequency	Resulting Action
Air	0/8	No Action Required
Bulk	No Suspect Building Material Observed	No Action Required
Dust	0/7	No Action Required
Soil	43/175	<b>August 2001: Large scale soil removal from school grounds and track area</b>  <b>August 2004: Isolated soil removal from southeast corner of school grounds</b>

## Libby High School

Libby High School – Historical Investigation Results									
Media	Date	# of Samples Collected	# and % of Samples with Detects				Analytical Method	Results Range	
			LA	%	C	%		LA	C
Air	1/2000	11	0	0%	0	0%	TEM ISO 10312	ND (Sen: 0.0007 – 0.0008 S/cm³)	ND (Sen: 0.0007 – 0.0008 S/cm³)
Bulk	10/2001	4	0	0%	0	0%	9002	ND	ND
Dust	1/2000	10	1	10%	3	30%	TEM ISO 10312	322 s/cm² (1/S) (Sen: 32 – 26,979 S/cm²)	322 s/cm² (1S) to 16,188 s/cm² (3S) (Sen: 32 – 26,979 S/cm²)
	6/2001	2	1	50%	1	50%	TEM ISO 10312	42,459 s/cm² (3S) (Sen: 2,831 – 14,153 S/cm²)	113,224 s/cm² (8S) (Sen: 2,831 – 14,153 S/cm²)
	8/2001	4	4	100%	4	100%	TEM ISO 10312	1,132 s/cm² (1S) to 8,492 s/cm² (3S) (Sen: 566 – 2,831 S/cm²)	1,698 s/cm² (3S) to 62,273 s/cm² (22S) (Sen: 566 – 2,831 S/cm²)
	9/2001	2	1	50%	0	0%	TEM ISO 10312	2,831 s/cm² (1S) (Sen: 2,831 S/cm²)	ND (Sen: 2,831 S/cm²)
Soil	3/2001 to 7/2001	218	78	36%	3	1%	All by 9002 then NDs by PLM-VE	51 <1% by 9002 8 >1% by 9002 18 TR by PLM-VE 1 <1% by PLM-VE	3 <1% by 9002
Libby High School – 2008 Investigation Results									
Indoor Results		<ul style="list-style-type: none"><li>• Low to moderate levels of unexpanded vermiculite observed under wood floors of greenhouses</li><li>• Remnant VCS observed in flower pot bases in storage room</li><li>• Various potted plants in common areas of school contained unexpanded vermiculite</li></ul>							
Outdoor Results		<ul style="list-style-type: none"><li>• Two flakes observed near northeast corner of the building</li></ul>							
Notes: LA – Libby Amphibole; C – Chrysotile; TEM – transmission electron microscopy; ISO – International Organization of Standardization; ND – Non-detect; s/cm² – structures per square centimeter; S – structure count; 9002 – PLM Method NIOSH 9002; PLM-VE – polarized light microscopy – visual estimation; TR – trace (<0.2%); > - greater than; < - less than; % - percent; VCS – vermiculite containing soil; Sen – analytical sensitivity; <b>Indicates removal action taken based</b>									

Libby High School – Resulting Actions		
Media	Detection Frequency	Resulting Action
Air	0/11	No Action Required
Bulk	0/4	No Action Required
Dust	7/18	<b>June 2001: Football field storage building cleaned and new equipment purchased</b>  <b>August 2001: Snack bar, press box, visitor's coach box, and storage garage cleaned</b>  <b>September 2001: Visitor's side bleachers cleaned</b>
Soil	78/218	<b>June 2001: Large scale soil removal from track area and from a portion of the tennis courts</b>

# Libby Administration Building

Libby Administration Building – Historical Investigation Results									
Media	Date	# of Samples Collected	# and % of Samples with Detects				Analytical Method	Results Range	
			LA	%	C	%		LA	C
Air	1/2000	5	1	20%	2	40%	TEM ISO 10312	0.0008 s/cm <sup>3</sup> (1S) (Sen: 0.0005 – 0.0007 S/cm <sup>3</sup> )	1.1274 s/cm <sup>3</sup> (2S) to 1.6211 s/cm <sup>3</sup> (2S) (Sen: 0.0005 – 0.0007 S/cm <sup>3</sup> )
Bulk	6/2001	7	2	29%	0	0%	9002	<1% In accessible attic space	ND
Dust	1/2000	5	0	0%	4	80%	TEM ISO 10312	ND (Sen: 32 S/cm <sup>2</sup> )	258 s/cm <sup>2</sup> (8S) to 644 s/cm <sup>2</sup> (20S) (Sen: 32 S/cm <sup>2</sup> )
	6/2001	2	0	0%	0	0%	TEM ISO 10312	ND (Sen: 566 S/cm <sup>2</sup> )	ND (Sen: 566 S/cm <sup>2</sup> )
	4/2003	10	0	0%	0	0%	TEM ISO 10312	ND (Sen: 73 - 293 S/cm <sup>2</sup> )	ND (Sen: 73 - 293 S/cm <sup>2</sup> )
	6/2003	3	0	0%	0	0%	TEM ISO 10312	ND (Sen: 146 - 585 S/cm <sup>2</sup> )	ND (Sen: 146 - 585 S/cm <sup>2</sup> )
Soil	3/2001	6	0	0%	0	0%	All by 9002 then NDs by PLM-VE	ND	ND
	6/2001	7	0	0%	0	0%	All by 9002 then NDs by	ND	ND

Libby Administration Building – Resulting Actions		
Media	Detection Frequency	Resulting Action
Air	1/5	No Action Required
Bulk	2/7	No Action Required VCI Reported in Attic; Cleaned
Dust	0/20	No Action Required
Soil	0/20	No Action Required

EPA plans to conduct stationary air sampling indoors during school hours at all schools. In addition, EPA is considering having its personnel or contractors wear air samplers while mimicking school children's behavior indoors. The legality of doing so is being researched. Outdoors, at all schools, soil sampling using PLM and visual inspections will occur as well as activity based monitoring.

*CAG Member Question - You said that a parent picked up vermiculite from the ground at the Libby Middle School in September of this year. Did EPA find any vermiculite when it originally walked around the grounds of the Middle School?*

Answer - No.

*CAG Member Question - Could you please make available the results of every sample taken at the Middle School?*

Answer - Yes.

*CAG Member Question - Regarding the vermiculite found this year in the greenhouse at Libby High School, did you miss the vermiculite in 2000-2001?*

Answer - Yes.

*CAG Member Question - Was the vermiculite found popped or un-popped?*

Answer - Un-popped.

*CAG Member Question - At the school administration building, you found un-friable asbestos. Does the cleanup plan for this building include removing the un-friable asbestos?*

Answer - No. We plan, however, to follow up this discovery with stationary air sampling.

*CAG Member Question - Do you plan to conduct outdoor air sampling at Asa Wood Elementary this year?*

Answer - Outdoor sampling will be conducted next year. Indoor sampling will be conducted this year.

*Audience Member Question - Are you using polarized light microscopy (PLM) as your sampling technique?*

Answer - We are using PLM as a screening tool for soil sampling. We are following it with activity based sampling. We use Transmission electron microscopy (TEM) to analyze air samples.

*CAG Member Comment - Paul Peronard is on record as saying that PLM is the workhorse analytical tool for soil sampling. Is either PLM or PLM-VE (polarized light microscopy - visual estimation) accurate enough to protect human health?*

Answer - I am not prepared tonight to discuss the details of the analytical techniques. I would need my chemist to do so.

*CAG Member Comment - There is no reason to go into the analytical technique until we have a risk assessment.*

*CAG Member Comment - The Technical Advisory Committee should delve into the details of*



*different sampling techniques and then report a summary of its finds to the CAG.*

*CAG Member Question - What does a trace sampling result mean? Is a trace result safe?*

Answer - I don't know if a trace result is safe. I am not prepared tonight to discuss what level of asbestos contamination is safe.

*CAG Member Question - Is it safe to have kids at Asa Wood Elementary School?*

Answer - I do not feel alarmed about the situation at Asa Wood. I cannot say definitively what the safe levels are.

*Question by Mr. Mueller - Does the CAG want to devote significant time at its next meeting to discussing different analytical techniques?*

**CAG Response - Those CAG members present agreed not to put this on the next meeting agenda.**

*CAG Member Comment - I know from first hand knowledge that county trucks hauled material from WR Grace to both McGrade and Plummer Schools. Because of concern about the tailings, we mixed the material with bentonite that was used at McGrade. EPA has never found the skating rink at McGrade. WR Grace built the walk path at Asa Wood Elementary to be 3' to 3.5' on either side of the center line. EPA's sampling at 5' from the center would not find the contaminated material.*

Response by Mike Cirian - The sampling of the walk path was done from 0 to 5' feet from center.

*CAG Member Comment - When Jim Christiansen was here, he told us that Highway 37 was substantially contaminated. He said that every sample tested was contaminated and that the source was likely WR Grace trucks driving on the road without covering the loads. However, Highway 37 was rebuilt in 1996, after WR Grace operations had shut down. We were then told that the state used base material from the mine in rebuilding the highway. However, when the state hired Tetra Tech to sample Highway, no tested samples contained contamination. A lot will have to happen for EPA to regain credibility. I see no progress in this regard.*

*CAG Member Comment - The turnover in Libby team leaders is contributing to the credibility problem. First we had Paul Peronard, then Jim Christiansen, then Peggy Churchill, then Paul again, now Ms. Atencio, and soon a new person.*

## **CAG Purpose and Process**

Gordon Sullivan, Philip Erquiaga, and Mel Parker reported on the deliberations of a committee tasked by the CAG at its September meeting to review the CAG purpose and process. The committee, which included Gordon Sullivan, Philip Erquiaga, Mike Giesey, and Mel Parker, met once, but was unable to reach agreement about recommendations to the CAG. Gordon Sullivan passed out copies of a May 2003 document entitled, *Public Involvement Policy of the U.S. Environmental Protection Agency*. Copies of the document are available at the EPA Information Center and online at <http://www.epa.gov/policy2003/policy2003.htm>.

Mel Parker read the following disclaimer included on the second page of the document:

The statutory provisions described in the Public Involvement Policy contain legally binding requirements. As indicated by the use of non-mandatory language such as "may," "should,"

and “can,” this Policy describes recommended procedures and approaches for conducting public involvement. It is a policy, not a rule, and is not legally enforceable.

Mr. Parker stated that a disclaimer is a refusal to acknowledge something as a fact. The document uses “may,” “should,” and “can” some 222 times, and is therefore meaningless.

***CAG Action - Those CAG members present agreed to take no action regarding the CAG purpose and process.***

### **Libby, Montana Amphibole Epidemiology Research Program**

Dr. David Williamson, Director of the ATSDR Division of Health Studies, provided the update. He introduced two of his colleagues with ATSDR, Dan Strausbaugh and Dr. Vinicius Antao, a pulmonologist. Dr. Williamson stated that ATSDR officials introduced the Libby, Montana Amphibole Epidemiology Research Program at the June 2008 CAG meeting and promised at that time to keep the CAG informed about developments regarding it. Since June, ATSDR conducted two listening sessions with Libby community groups including the CAG and medical providers. ATSDR took three suggestions away from the listening sessions:

- The initiative should be a partnership between the grant awardee and agencies in Libby.
- Libby groups need to have input into the research activities.

To address these three points, ATSDR decided on the following actions:

- It will require the awardee to have letters of support from the Libby community.
- It will require the awardee to create a scientific advisory committee to include stakeholders from the Libby community.

The grant funding application announcement for the Initiative has been drafted and is in review within the Center for Disease Control and Prevention (CDC) in Atlanta. ATSDR hopes to release the funding announcement to seek applicants in the next month or two.

*CAG Member Question - You mentioned a desire for partnerships. Does that mean a partnership between St. John’s Lutheran Hospital and the Libby Center for Asbestos Related Disease (CARD)?*

Answer - By partnership, I was referring to the awardee and Libby organizations, although we strongly encourage all local agencies/institutions to work together to more effectively leverage resources.

*CAG Member Question - Do you want consensus among Libby organizations?*

Answer - *CAG Member Question - Do you want consensus among Libby organizations?*

Answer - Although consensus would be wonderful, it is probably too strong. We want engagement and collaboration between the awardee and community organizations.

*Audience Member Question - To you expect a grant award this year?*

Answer - The awardee will likely be selected next year.

*CAG Member Comment - Thank you for your actions on behalf of Libby.*

## Review Draft - Not for Quotation

### Asbestos Health Funding Advisory Group

Red Busby reported on the Asbestos Health Funding Advisory Group. This group was formed at the invitation of Bill Patten to provide advice to St. John's Lutheran Hospital about the expenditure of the \$250,000 paid to it annually by W.R. Grace. The purpose statement of the group is: "Patients working with healthcare organizations to provide the best possible asbestos related disease healthcare. Mr. Busby invited anyone interested to attend the group's meetings that are held on the first and third Monday's of each month from 6:00 -7:30 pm at the Community Center.

### Baucus Hearing

Red Busby began his presentation regarding the hearing held by Senate Committee on Environment and Public Works on September 25, 2008 by asking two questions. First, does EPA have the authority to declare a public health emergency, and second, is tremolite asbestos a regulated substance? Kathie Atencio answered in the affirmative to both questions. Mr. Busby then passed out copies of a document prepared by the Majority Staff of the Environment and Public Works Committee entitled, *EPA's Failure to Declare a Public Health Emergency in Libby, Montana*. The full report is available online at [www.epw.senate.gov](http://www.epw.senate.gov). A webcast of the hearing is available through the same web site. At Mr. Busby's request, Mel Parker read the following excerpts from the report.

Superfund contains certain limitations on the type of material that can be removed or remediated under the statute, including a limitation on removal or remedial action in response to a release from a product which is part of the structure of a building and results in exposure within the building. However, Superfund also provides EPA with authority to undertake a removal or remedial action with respect to such a product if the release constitutes a public health or environmental emergency and no one else with authority and capability to act will do so in a timely manner. In order to use this authority EPA must declare a public health emergency. (Page 8)

Headquarters proceeded with preparations for the declaration of a public health emergency. Emails indicate Horinko requested to brief Administrator Whitman in early March. On February 26, 2002, Horinko told Grevatt to "work with Joe Martyak [press officer for EPA Headquarters] on the press statement for Libby." She stated, "I'd like to frame it as, we are declaring a [public health emergency] due to the gross, long term exposures for the Libby residents, and thus we are taking aggressive action (including select removal of insulation)." It appears EPA staff briefed Administrator Whitman on March 19, 2002. On April 9, 2002, Bonnie Piper, spokeswoman with EPA Headquarters Press Officer emailed staff, including Jessica Furey, special counsel for the Administrator, noting: "***I believe CTW [Administrator Whitman] wants this PHE announced within 10 days.***" (Page 20)

However, this waste vermiculite was not used in the attics of Libby homes. In the interview with OIG, Paul Peronard, explained that EPA Headquarters' factual basis the proposed non-product theory was invalid. Peronard stated that vermiculite must be expanded to be suitable for insulation. The piles of vermiculite left out for Grace employees were unexpanded vermiculite, not suitable for attic insulation. Therefore,

Peronard says, the non-product theory is inaccurate. (Page 25-26)

On April 15, 2002, Cohn again conveyed these concerns, this time to Horinko's special assistant, Jeff Denit. Denit emailed Horinko:

I've double-checked w/Matt Cohn about record support for 'non-product' insulation: ... The giveaways we can document are for wastes used at track, out buildings, yard rocks that wouldn't be used in insulation. ***Since Libby is one of the few, if not only site where EPA is looked upon favorably and PHE would be favorably received and adimin'r would be praised????***. (Page 27)

Headquarters then drafted the Action Memo to authorize removal of insulation without declaring a public health emergency. (Region 8 Acting Administrator) Jack McGraw agreed, as long as the insulation is addressed. Horinko received an email from an official in Headquarters stating: "I talked to McGraw, and he agreed that as long as the action memo mentions ZONOLITE, he's cool with proceeding." The email stated McGraw's concerns, including ***"EPA is in WR Grace's pocket and afraid to declare PHE because they don't want us to."*** It appears at this point, the Action Memo Amendment was revised again. (Page 30)

Mr. Busby stated that he is appalled that some in EPA characterized the Senate hearing as political/electioneering. He asked if the risk assessment will be doctored, and how will we trust EPA again? He then read the letter included below as Appendix 2.

*CAG Member Comment - EPA has authority to do what they are doing and to recover their costs from W.R. Grace. However, EPA has not recovered cost of attic insulation removal. We have heard before that EPA did not act back in the 1980s because of fragmented authority. A public health emergency would remove a legal impediment to cost recovery. Not declaring a public health emergency means that EPA has not learned this lesson.*

*CAG Member Comment - EPA contacted me for support for a public health emergency declaration. The issues that we are facing require teamwork between EPA, ATSDR, and this community. We need to reestablish trust with EPA. We need to work together constructively and approach each other with respect.*

*Audience Member Comment - We need a working relationship with EPA to get the cleanup done.*

*CAG Member Comment - Credibility comes from actions.*

*CAG Member Question - How do we move forward as a community to reach consensus?*

Response - We need to bring people into the process. Bill Patten has worked to re-engage the community. Some have voiced concern that another designation such as a public health emergency would be negative.

*Audience Member Comment - The Office of Management and Budget and Vice President Cheney's Office told EPA Administrator Whitman to back off of the public health emergency declaration or to resign. She resigned.*

*CAG Member Question - How do we move forward?*

Answer - We need leadership from the county and a new administration in Washington.

*Comment by Lerah Parker - We have been here for nine years. We want our kids out of the playground at Asa Wood Elementary. We have begged for a risk assessment. Although our property has been cleaned, we are still unable to reestablish our business there. I have seen trucks driving down Rainy Creek Road. They have driven around the gate because opening it takes too much time. They do not wear masks or white suits because doing so might scare the people of Libby. Please identify this comment by my name in the summary rather than merely as an audience member.*

Response by Gerald Mueller - I will identify you, but I am not able to transcribe comments. I only try to summarize them.

*Comment by Lerah Parker - Once again, I am not being listened to.*

*Audience Member Comment - We should send a letter thanking Senator Baucus for the hearing on EPA's actions regarding designation of a public health emergency in Libby.*

***CAG Action - Those CAG members present agreed to send a letter thanking Senator Baucus. DC Orr agreed to draft the letter and bring it to the next CAG meeting for approval. He also agreed to provide a draft of the letter to Linda Newstrom in the EPA Information Center so that she can email it to Mr. Mueller for distribution to his CAG email lists.***

## **Public Comment**

*CAG Member Comment - Over the period since EPA arrived, it has had to go back numerous times to correct problems. We have to live with them. The sampling is not working. The cleanup triggers are based on assumptions, not science. We should use the worst case, one fiber as the trigger. We should build a school that is safe for our kids to attend. Chris Weis did good work when he was here, and I have a lot of respect for him. He sent samples that were labeled "non-detect" to the United State Geologic Service, and they verified the presence of asbestos in them using visual infrared spectrometry. We are stuck with an analytical tool, polarized light microscopy (PLM), that doesn't work.*

Response by Kathie Atencio - I understand your frustration about the problems with PLM. EPA is piloting other sampling techniques.

*CAG Member Comment - On November 6, the CARD clinic and researchers from Montana State University College of Nursing will host an evening of food, fun, education, and entertainment at 7:00 pm in the Ponderosa Room of City Hall. Presentations will address asbestos related diseases and actions to take for living healthier with chronic illness.*

*CAG Member Comment - Tonight we have on attendance several students from Gene Reckin's high school class. They are conducting indoor air monitoring of particulate at Asa Wood Elementary.*

## **Next Meeting Agenda Topics**

The next meeting, will include the following topics:

- Report by Catherine LeCours on the Troy cleanup. Ms. LeCours will provide documents to

Mr. Mueller regarding the Troy cleanup so he can email to his CAG lists prior to the November meeting.

- The draft letter to Senator Baucus.
- The designation of the public health emergency.

### **Next Meeting**

The next meeting is scheduled for 7:00 to 9:00 p.m. on November 13, 2008 in the Ponderosa Room of Libby City Hall.

**Appendix 1**  
**Libby CAG Meeting Attendance List**  
**October 9, 2008**

**Members**

Philip Erquiaga  
DC Orr  
Gordon Sullivan  
K.W. Maki  
Bill Patten  
Dr. Brad Black  
Eileen Carney

**Group/Organization Represented**

48 Degrees N./Eagles Voice  
City of Libby  
Self  
Libby Schools  
St. John's Lutheran Hospital  
Lincoln County Health Officer  
Montana State Board of Respiratory Care Practitioners

**Agency Representatives**

Ted Linnert	Environmental Protection Agency (EPA)
Kathleen M. Atencio	EPA
Mike Cirian	EPA
Kathryn T. Hernandez	EPA
Catherine LeCours	Montana Department of Environmental Quality (DEQ)
Dan Strausbaugh	Agency for Toxic Substances and Disease Registry (ATSDR)

**Visitors**

Dr. Dave Williamson	ATSDR
Dr. Vinicius Antao	ATSDR



## Appendix 2

I am outraged and concerned about the recent Senate hearing investigation of the EPA. I watched it live on my computer, Environment and Public Works Committee SD-406. The hearing was Thursday, Sept 25, 2008. The EPA wouldn't allow the lead toxicologist and Paul Pesonard to testify. EPA Administrator Stephen Johnson was asked to appear also and declined.

Sen. Baucus was quoted as saying the EPA has been playing fast and loose with Libby. Sen. Baucus also said under law the EPA had no authority to cleanup insulation in homes under the CERCLA without a declaration of public health emergency - so they called it a non-product which means it was not processed, which we all know isn't true.

Because there are 15 million to 52 million homes in America that could have Zonolite insulation might have been another reason why we didn't get a public health emergency.

To date, the EPA has not addressed the rest of the nation on how to cleanup attic insulation. I thought their institution was organized to protect the American people. The EPA can declare Libby a public health emergency since this is a product we're dealing with, but won't. With this declaration we could get a baseline assessment along with medical services for asbestos patients, and proper cleanup. The RPM in Libby in 2002 had the authority and money to start a baseline assessment, but instead used the money to clean homes.

Again I ask why?

EPA under CERCLA, which is questionable, removed public health emergency from all documents in 2002 and requested no other risk assessments to be done until 2007.

On April 9, 2002, Bonnie Piper informed EPA staff that administrator Whitman said she would sign a public health emergency in 10 days, after being briefed by EPA staff on March 19, 2002.

Again, what happened?

Sen. Barrasso also on the panel committee asked how the EPA concern their two safety letters to the public with no baseline health risk assessment could tell Libby folks that things are cleaned up.

Criminal investigator assistant inspector Gen. Stephen Nesbitt said there was also a misuse of CERCLA funds by the EPA. He also said there would be ongoing investigations with the EPA.

Sen. Baucus and assistant inspector Nesbitt are wondering with the deceptive practices of the EPA if there is criminal intent.

A lot more questions were brought up, but these are a few of the concerns. With this being said, how are we as a community ever to believe from now on what the EPA tells us?

One other point, how did the EPA recoup the money from W. R. Grace without a proper public health emergency declaration? Baucus reminded us to keep the EPA's feet to the fire.

In closing, I'd like to thank all the people who sent informative emails and telephone calls to Sen. Baucus and assistant inspector Nesbitt so they could do their work.

A special thanks to Commissioner Marianne Roose and Dr. Brad Black for attending the hearing and giving the hearing an informative status on our situation here in Libby.

Red Busby